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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/647,194

08/25/2003

David H. Parish

154.002

1764

38245

7590

11/03/2008

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211 N. UNION STREET, SUITE 100  
ALEXANDRIA, VA 22314

EXAMINER

RETTA, YEHDEGA

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/647,194	<b>Applicant(s)</b> PARISH, DAVID H.	
	<b>Examiner</b> Yehdega Retta	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-59 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/11/04,6/16/04</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

### **DETAILED ACTION**

This is a non-final, first office action on the merits, in response to application filed August 25, 2003. Claims 1-59 are currently pending.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-59 are rejected under 35 U.S.C. 102(e) as being anticipated by Peters (US 2003/0195800 A1).

Regarding claims 1-3, Peters teaches detecting a first product selected by a consumer during a visit to the store; generating a message, a content of the message depending on the first product detected by the detecting step; emitting the message, during the visit to the store, the emitting step being performed at a first location, the first location being fixed wherein the fixed location is a shelf (see fig. 2 and fig 3); displaying, during the visit to the store, a price for the first product, the displaying step being performed at a second location different from the first location; and receiving payment from the consumer at the second location (fig. 2 and [0011], [0028]-[0033]); wherein emitting the message includes displaying a light signal for sensing by the consumer; wherein emitting the message includes playing an audio signal for sensing by the consumer ([0009], [0030]).

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Regarding claims 4-7, 24, 25, 27, 42-45, Peters teaches, wherein generating the message includes generating the message to include information about another product; include information about a product that can be used with the first product; includes generating the message to include information about a product that can be substituted for the first product; includes generating the message to include a suggestion to select an additional unit of the first product, and pricing information related to the additional unit (see fig. 2, and [0008], [0028]-[0033]).

Regarding claims 8, 28, 46 Peters teaches wherein a content of the message depends on a record for the consumer, the record being compiled on a previous day (see [0033]).

Regarding claims 9-21, 29-40, 47-59, Peters teaches wherein a content of the message depends on whether a second product has been detected; wherein the consumer selects the first product by moving the first product; wherein the detecting step detects the first product after the consumer moves the first product; wherein the first product is on a shelf in the store, and the consumer selects the first product by moving the first product from the shelf; wherein the first product is on a shelf in the store, the consumer transports a container, the consumer selects the first product by moving the first product from the shelf to the container, and the detecting step detects the first product while the first product is in the container; wherein the detecting step detects the first product while there are a plurality of other products in the container; wherein the container includes a plurality of wheels; wherein detecting includes receiving a signal from the first product; wherein the signal includes a plurality of digits that identifies the first product; wherein the signal includes a radio signal; wherein generating the message includes accessing a data structure; wherein the data structure includes a table (fig. 2, 7 [0024]- [0034]).

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Regarding claims 22, 23, 26 and 41, Peters teaches a system in a store, the system comprising: an output device at a first fixed location; a detector that detects a first product selected by a consumer, to generate a first signal; a generator that generates a message and sends the message to the output device in response to the first signal; and a display that displays a price for the first product, the display being located at a second location different from the first location (see fig. 2 and 7, [0028]-[0034]).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YR

/Yehdega Retta/  
Primary Examiner, Art Unit 3622